

FILED
JAMES BOHNI
OHIO - 1 AM 11:15

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

IN RE:

INITIAL APPEARANCE AND
WARRANT PROCEDURE

DAY 11-01

**MAGISTRATE JUDGES' THIRD AMENDED
GENERAL ORDER NO. 9**

INITIAL APPEARANCE

To implement Fed. R. Crim. P. 5 and 32.1 and to ensure that every arrested person is afforded his or her right to a prompt appearance before a judicial officer, it is hereby ORDERED:

1. This Order applies to all arrests, whether initial, for failure to appear, for alleged probation or supervised release violation, or for bond violation, made by any federal law enforcement officer in Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, or Shelby Counties, Ohio, and includes arrests made upon voluntary surrender. Any federal law enforcement officer who intends to bring a person arrested elsewhere in the Southern District of Ohio before the United States Magistrate Judge at Dayton because of the unavailability of a judicial officer at Columbus or Cincinnati shall also follow this procedure.

2. **Arrests Without Warrants:** Any federal law enforcement officer who makes an arrest without a warrant shall immediately bring the arrested person, or cause him or her to be brought, before the Magistrate Judge on duty for an initial appearance. Absent

extraordinary circumstances, such appearance shall take place within three hours of the arrest, except that, when an arrest without a warrant occurs after 10:00 P.M., the initial appearance shall take place at 10:00 A.M. the next day. In the case of an arrest made without a warrant, a complaint or violation notice must be prepared before the appearance and must be endorsed by an Assistant United States Attorney. In the event the Magistrate Judge on duty is unavailable, the arresting officer shall contact one of the other Magistrate Judges assigned to the Dayton location for an initial appearance.

3. **Arrests on Warrants:** When an arrest is made on a warrant, the initial appearance shall take place at the next 1:30 p.m. initial appearance docket before the Magistrate Judge on duty.

4. Upon making an arrest, with or without a warrant, the arresting officer or his or her agency shall immediately notify:

- 1.) one of the Assistant United States Attorneys at Dayton assigned to represent the government in criminal matters;
- 2.) the United States Marshals office;
- 3.) the United States Pretrial Services Agency;
- 4.) the Magistrate Judge on duty.

5. If the arrested person is known to be represented by counsel, the attorney shall be notified as soon as an arrest is made and the Magistrate Judge shall be notified of the attorney's name.

6. If the person has been arrested on a warrant from another judicial district and the issuing judicial officer has recommended a bond, that information shall be promptly conveyed to both the Magistrate Judge and the Pretrial Services Officer. Similarly, if the United States Attorney for this District intends to recommend an own recognizance bond or a bond unsecured by a cash deposit or the United States Attorney intends to request pretrial detention, the United States Attorney shall promptly convey this information to the Magistrate Judge and the Pretrial Services Officer.

7. This Order applies any time a person is detained by security personnel and not released within three hours and particularly applies any time a person is placed in custody of a County Sheriff on federal charges. Supervisors of all federal security personnel in the counties listed in paragraph 1 are responsible for ensuring that personnel under their supervision are familiar with this Order.

WARRANTS

8. The Magistrate Judges will not approve an arrest or search warrant unless the complaint or application has been approved by an Assistant United States Attorney, with such approval indicated by endorsement thereon.

9. Applications for search warrants with supporting affidavits will be filed by the Clerk as a sealed case until a return is made. The case will then be opened for public inspection

unless a judge has ordered that it continue to be sealed. Any motion by the Government to seal search warrant papers must be made before a return is made on the warrant.

November 1, 2011

s/ Sharon L. Ovington
Sharon L. Ovington
United States Magistrate Judge

s/ Michael J. Newman
Michael J. Newman
United States Magistrate Judge

s/ Michael R. Merz
Michael R. Merz
United States Magistrate Judge